
FINDING AND RECOMMENDATION(S)

Submitted by: Bud Hicks / Ron McIntyre / John Upton

Findings

1. Compared to the permitting process for fuels reduction projects in Nevada, projects in California are subject to an additional layer of permitting requirements by the Lahontan Region Water Quality Control Board ("LRWQCB"). This added regulatory layer has resulted in project delay, increased costs for permitting and project implementation, deletion of critical components from projects, and reduced project scope due to its imposed increased costs. There is a need to create greater consistency in permitting requirements in the Tahoe Basin so that priority projects for fuels reduction projects in areas subject to fire hazards will be undertaken according to relative need, rather than relative ease of permitting.
2. As a result of the additional layer of permitting requirements imposed by the LRWQCB, land managers and private property owners seeking to mitigate fire hazards in stream environment zones and steep slope areas are reluctant and, in many cases unwilling, to undertake fuels reduction projects in such areas. Further, delays and uncertainties in the LRWQCB permitting process pose difficulties to land managers in holding together funding grants for such projects.

Background and Supporting Evidence

When the TRPA was created, the prevention of catastrophic fire was not considered and the impacts of catastrophic fire on the environment of the Tahoe Basin and the Lake were not addressed. Since then, forest fuels build-ups in the Basin have occurred as the result of unintended consequences of the TRPA's and LRWQCB's efforts to curb erosion by preventing the removal of forest fuels (especially in stream environment zones and on steep slope), and the efficiency of the fire agencies in keeping fires in the Basin under control. Circumstances have changed, and now the threat of catastrophic fires poses hazards to the Lake's water quality and clarity never imagined by the creators of the Tahoe Regional Planning Compact.

Recognizing these changed circumstances, the TRPA Governing Board took action in 2002 to declare that the prevention of catastrophic fires within the Basin its' "Number One Priority". In response to the Angora Fire in June 2007, the TRPA Board created a "Catastrophic Wildfire Prevention Committee" to address forest health and fuels reduction issues. In addition, proposals have been made to this Commission to recommend revisions or supplements to the TRPA Governing Board's composition and its responsibilities in order to permanently enhance the TRPA's attention to this important issue.

While the LRWQCB has made efforts to facilitate fuels reduction projects in stream environment zones and steep slope areas, substantial disparities remain between the permitting processes followed in California and Nevada, and such disparities have generally increased in recent years as LRWQCB requirements have made fuels reduction projects in the California portion of the Tahoe Basin more expensive, more time consuming, and less certain. These disparities arise from the application by the LRWQCB of subjective, if not arbitrary, standards to such projects and the LRWQCB's lack of the multi-disciplinary capabilities necessary to assess such projects that are presently available within the TRPA. Because of the foregoing, the TRPA is better prepared to exercise this authority. The TRPA is a multi-disciplinary agency that is capable of considering all the impacts of such proposed projects and, as a bi-state regional authority, the TRPA can apply its authority in regard to such matters uniformly in both States.

Recommendations

1. It is recommended that the Governor of the State of California direct the Lahontan Water Board (LRWQCB) to transfer to the TRPA no later than October 1, 2008, by a suitable MOU, all authority of the LRWQCB relating to fuels reduction projects performed within the Tahoe Basin. The intent is to have an expedited single permitting process, eliminating the need for LRWQCB to issue a permit, and to achieve consistency in the application of environmental laws as relates to these kinds of projects in the Tahoe Basin. **In addition, pursue the** execution of a Management Agency Agreement (MAA) between the State Water Resources Control Board (SWRCB) and TRPA **in accordance with SWRCB existing policy for non-point discharge**. Consideration of **an MAA** is not intended to be, nor shall it be considered a basis for, delay in execution of the MOU between LRWQCB and TRPA.

2. It is further recommended that the Governor of the State of California direct the LRWQCB to receive comments from the TRPA Governing Board prior to enacting any new regulations and/or revised interpretations of existing regulations relating to or otherwise affecting removal or mitigation of fire hazards.
3. It is recommended that the Governing Board of the TRPA adopt suitable procedures allowing interested persons affected by approvals or denials of fuels reduction projects that are subject to the TRPA's revised MOU with LRWQCB with regard to such matters to appeal such decisions to the TRPA Governing Board provided that good cause is shown for such appeals, that such reviews are conducted in open meetings, and such reviews are conducted in an expeditious manner that does not unreasonably delay the implementation of the subject fuels reduction project.
4. It is recommended that the Director of CALFIRE be empowered by the Governor of the state of California to oversee, and report to the Governor the progress on, the development of the MOU between the LRWQCB and the TRPA with regard to reduction of fire hazards. It is further recommended that the final MOU be submitted to, and be subject to the prior review and comment by the director of CAL FIRE.
5. The agencies represented on the permit streamlining group have submitted a substantial list of planned actions to the Commission. The implementation of these actions is urgent, their details need direction from fire professionals, and an important goal is to achieve Basin-wide permitting consistency for fuels reduction projects. It is therefore recommended that the Governors of Nevada and California appoint their respective State Directors of fire fighting activities (Chief, Nevada department of Public Safety, and Chief, CALFIRE, respectively) to oversee the implementation, and report to the Governors, the progress of permit streamlining actions.
6. It is further recommended that quantitative standards for soil productivity and hydraulic function as developed by the U.S. Forest Service, Pacific Southwest Research Station be utilized throughout the Lake Tahoe Basin.
7. It is further recommended that Region 5 of the U.S. Forest Service, with guidance from the Pacific Southwest Research Station, develop implementation and effectiveness monitoring protocols to ensure that the quantitative standards for soil productivity and hydrologic function are met.

Impacts of Implementation: *(The implementation of any Recommendation is likely to have specific impacts. Consider potential consequences related to each of the following areas):*

Analysis of impacts on the following factors is REQUIRED (Best Estimate):

- ☐ Cost / It is believed the implementation of these recommendations will reduce direct costs to the State of California. The amount of the cost savings to the State of California is unknown at this time. However, there will be corresponding substantial savings to property owners and land managers that will be relieved of having to comply with otherwise duplicative permitting processes.
- ☐ Funding source / It will be necessary for the State of California to make an adjusting contribution to the TRPA budget for its assumption of these obligations from the LRWQCB.
- ☐ Staffing / Unknown at this time. The TRPA has qualified staff to handle such matters, and currently does such reviews at this time.
- ☐ Existing regulations and/or laws / This does not change existing laws or regulations, but reassigns responsibilities within existing regulatory framework.
- ☐

Analysis of impacts on the following factors is OPTIONAL:

- ☐ Operational / These changes will greatly enhance the ability of private property owners and other land managers to perform necessary fuels reduction projects within the WUI.
- ☐ Social
- ☐ Political
- ☐ Policy
- ☐ Health and Safety
- ☐ Environmental
- ☐ Interagency